

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

FRANK BOOKER, JR.

Plaintiff,

v.

DOMINION VIRGINIA POWER, *et al.*,

Defendants.

)
)
)
)
)
)
)
)
)
)
)

Civil Action No. 3:09cv00759

**MOTION TO DISMISS OF DEFENDANT VIRGINIA ELECTRIC AND POWER
COMPANY D/B/A DOMINION VIRGINIA POWER**

Defendant, Virginia Electric and Power Company d/b/a Dominion Virginia Power, by counsel and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, respectfully requests that the Court dismiss Plaintiff's Complaint for reasons set forth in the accompanying Memorandum in Support of Motion to Dismiss of Defendant Virginia Electric and Power Company d/b/a Dominion Virginia Power.

ROSEBORO NOTICE

This day, Defendant Virginia Electric and Power Company d/b/a/ Dominion Virginia Power, filed a Motion to Dismiss Plaintiff's Complaint. Pursuant to the requirements of Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), and Local Rule 7(K), promulgated by the United States District Court, Eastern District of Virginia, the Plaintiff is herewith notified and warned that:

- (1) The *pro se* party is entitled to file a response opposing the motion and that any such response must be filed within twenty (20) days of the date on which the dispositive or partially dispositive motion was filed; and

- (2) The Court could dismiss the action on the basis of the moving party's papers if the *pro se* party does not file a response; and
- (3) The *pro se* party must identify all facts stated by the moving party with which the *pro se* party disagrees and must set forth the *pro se* party's version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and
- (4) The *pro se* party is also entitled to file a legal brief in opposition to the one filed by the moving party.

The plaintiff is further reminded that no pleading or other documents submitted by the plaintiff will be filed by the Clerk unless the plaintiff also attaches a certificate of service stating that the plaintiff has served or will serve copies thereof upon undersigned counsel for the Defendant. The certificate of service shall show the date and manner of service. See Rule 5 of the Federal Rules of Civil Procedure.

Respectfully submitted,

/s/
Jennifer L. Morris

Andrew G. Mauck, VSB No. 35177
Jennifer L. Morris, VSB No. 75214
Setliff & Holland, P.C.
4940 Dominion Boulevard
Glen Allen, VA 23060-6766
(804) 377-1264
(804) 377-1284 (fax)

Attorneys for
Virginia Electric and Power Company

CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2010, I electronically filed the foregoing **MOTION TO DISMISS OF DEFENDANT VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

W. Jeffery Edwards, Esq.
William H. Wright, Jr.
Hunton & Williams, LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Counsel to Defendant TDS Telecommunications Corporation

Robin Perrin, Esq.
Assistant United States Attorney
Office of the United States Attorney
600 East Main Street, Suite 1800
Richmond, Virginia 23219

Counsel for Defendants Mark Bertsch and the United States.

I also certify that on January 14, 2010, a copy of the foregoing **MOTION TO DISMISS OF DEFENDANT VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER** was sent via U.S. mail, postage prepaid to:

Mr. Frank Booker, Jr.
13015 Five Forks Road
Amelia, Virginia 23002

Plaintiff

/s/
Jennifer L. Morris

Andrew G. Mauck, VSB No. 35177
Jennifer L. Morris, VSB No. 75214
Setliff & Holland, P.C.
4940 Dominion Boulevard
Glen Allen, VA 23060-6766
(804) 377-1264
(804) 377-1284 (fax)

Attorneys for
Virginia Electric and Power Company